

## HOUSE BILL NO. 166

INTRODUCED BY M. LEE

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ~~CERTAIN LAND~~ A WETLAND MITIGATION SITE TO BE CONVEYED BY THE DEPARTMENT OF TRANSPORTATION WITH A PERPETUAL CONSERVATION EASEMENT; RESTRICTING WHO MAY OWN THE CONSERVATION EASEMENT; PROVIDING SPECIAL RESTRICTIONS FOR WETLAND MITIGATION SITES; AND AMENDING SECTION 60-4-207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 60-4-207, MCA, is amended to read:

**"60-4-207. Conveyances -- execution and contents.** (1) Land or an interest in land sold by the department ~~shall~~ may be conveyed only when full payment has been made for it. ~~It shall~~ Except as provided in subsection (2), land or an interest in land must be conveyed by a deed or patent of conveyance without covenants ~~which recites, stating that it~~ the deed or patent was issued under this chapter.

(2) (A) Land or an interest in land that has been constructed, altered, or otherwise used to satisfy wetland mitigation requirements of federal laws or regulations may be conveyed with a perpetual conservation easement that contains the wetland mitigation credit for the department.

(B) (i) THE CONSERVATION EASEMENT MUST BE HELD BY A QUALIFIED EASEMENT HOLDER DEFINED, FOR THE PURPOSE OF THIS PART, AS A PRIVATE NONPROFIT ORGANIZATION, A LAND TRUST, OR A STATE OR FEDERAL AGENCY.

~~———— (ii) THE CURRENT LANDOWNER OF THE PROPERTY FROM WHICH THE WETLAND MITIGATION SITE WAS SOLD MUST BE GIVEN THE RIGHT OF FIRST REFUSAL TO PURCHASE THE PROPERTY.~~

~~(iii)(ii)~~ THE TERMS OF ANY AGREEMENT TO ACCESS THE WETLAND MITIGATION SITE MAY NOT BE EXPANDED WITHOUT THE CONSENT OF THE LANDOWNER OF THE PROPERTY TO WHICH THE ACCESS AGREEMENT APPLIES.

~~(2)(3)~~ The deed or patent shall must contain a reservation of easements for rights-of-way for the benefit of the United States and all other reservations to which the land conveyed may be subject.

~~(3)(4)~~ The deed or patent shall must be signed by the governor or, in case of ~~his~~ the governor's absence or inability, the lieutenant governor. ~~It shall~~ The signature must be attested by the secretary of state and have attached the great seal of the state. ~~It~~ The signature need not be acknowledged."

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